

Remarks/Arguments

Applicants respectfully request reconsideration of the application in view of the foregoing claim amendment and in light of the following remarks and reasoning.

Status of Claims

Claims 1-3 and 7-9, drawn to nucleic acid sequences encoding human vanilloid receptor-like (VRL) receptor, an expression vector comprising a nucleic acid which encodes a VRL, host cells comprising the vectors disclosed and claimed in the instant application and a method of producing VRL receptor polypeptide are pending and under examination. Claims 4, 6, and 10-17 were previously canceled. Claim 5 is canceled in the instant response.

Claim Amendment(s)

In order to advance prosecution on the merits, claim 5 has been canceled.

The Office Action indicates that the amendment of claim 5 made in the Response filed on December 24, 2003 failed to use the correct notation to indicate the changes that were introduced into the claim language. The cancellation of claim 5 obviates the need to file an additional claim amendment with corrected notation.

The Rejection of Claim 5 Under 35 U.S.C. §102(e) Should be Withdrawn

Claim 5 is rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No.: 6,440,440. The rejection was premised on the fact that U.S. Patent No.: 6,444,440 discloses a polynucleotide encoding a polypeptide that is 100% identical to the instant SEQ ID NO: 2 from position 420 to the C-terminal of SEQ ID NO: 2, which corresponds to position 544 of 6444440. The Examiner indicates that SEQ ID NO:18 (which was within the scope of claim 5 as it was amended in the December 24 Response) corresponds to a probe that would bind to the region of instant SEQ ID NO: 1 (polynucleotide encoding instant SEQ ID NO:2) beginning at nucleotide position 1607. Accordingly, the Examiner reasons that the probe (SEQ ID NO:18) would bind to the polynucleotide disclosed in U.S. Patent No.: 6,440,440.


The cancellation of claim 5 obviates this rejection. Based on the cancellation of claim 5, Applicants respectfully request reconsideration and withdrawal of this novelty rejection.

Claims 1-3 and 7-9 Are in Condition for Allowance

On page 4 of the February 25, 2004 Office Action, the Examiner indicates that Claims 1-3 and 7-9 are allowed, in view of the withdrawal of rejections of claims 1 and 7-9 under 35USC §102(e) as being anticipated by US Patent No.: 6,444,440.

In light of the cancellation of Claim 5, Applicants maintain that claims 1-3 and 7-9 are in condition for allowance and respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By 
Patricia L. Chisholm
Reg. No. 45,822
Attorney for Applicant

MERCK & CO., INC.
P.O. Box 2000
Rahway, New Jersey 07065-0907
(732) 594-5738

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